

ROY T. HIRAGA
County Clerk

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OFFICE OF THE MAYOR



JEFFREY T. KUWADA
Deputy County Clerk

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OFFICE OF THE COUNTY CLERK

COUNTY OF MAUI
200 SOUTH HIGH STREET
WAILUKU, HAWAII 96793

DEPT OF PLANNING
COUNTY OF MAUI

February 1, 2008

Honorable Charmaine Tavares
Mayor, County of Maui
200 South High Street
Wailuku, Hawaii 96793

For transmittal to:

Mr. Jeffrey S. Hunt
Planning Director
County of Maui
Wailuku, Hawaii 96793

APPROVED FOR TRANSMITTAL

Charmaine Tavares 02-04-08
Mayor Date

Dear Mr. Hunt:

Transmitted herewith is a certified copy of Resolution No. 08-5,
which was adopted by the Council of the County of Maui, State of Hawaii,
on January 25, 2008. Also attached is a copy of Committee Report
No. 08-15.

Respectfully yours,

RTH
ROY T. HIRAGA
County Clerk

/jym

Enclosure

08/3647

COUNCIL OF THE COUNTY OF MAUI
PLANNING COMMITTEE

January 25, 2008

Committee
Report No.

08-15

Honorable Chair and Members
of the County Council
County of Maui
Wailuku, Maui, Hawaii

Chair and Members:

Your Planning Committee, having met on January 8, 2008, makes reference to County Communication No. 07-284, from Councilmember Gladys C. Baisa, transmitting a draft resolution entitled "REFERRING A DRAFT BILL TO AUTHORIZE HOME OCCUPATIONS IN VARIOUS ZONING DISTRICTS TO THE LANAI, MAUI, AND MOLOKAI PLANNING COMMISSIONS". The purpose of the draft resolution is to refer to the planning commissions an attached draft bill entitled "A BILL FOR AN ORDINANCE TO AUTHORIZE HOME OCCUPATIONS IN VARIOUS ZONING DISTRICTS". The purpose of the draft bill is to establish "home occupation" as a permitted use in the Residential, R-0 Zero Lot Line Residential, Apartment, Country Town Business, B-1 Neighborhood Business, B-2 Community Business, and B-3 Central Business zoning districts.

By correspondence dated January 2, 2008, the Chair of your Committee transmitted a revised draft resolution, incorporating nonsubstantive revisions to the draft resolution and draft bill.

At its meeting, your Committee met with the Planning Director; the Administrative Planning Officer, Department of Planning; and a Deputy Corporation Counsel.

Your Committee received public testimony from three people and two written testimonies in support of the revised draft resolution. The testifiers contended that allowing for home-based businesses that do not disrupt residential areas would provide numerous economic and social benefits.

The Chair of your Committee noted that the revised draft bill would establish "home occupation" as a permitted use in the Residential, R-0 Zero Lot Line Residential, Apartment, Country Town Business, B-1 Neighborhood Business, B-2 Community Business, and B-3 Central Business zoning districts. As defined in Title 19 of the Maui County Code, a "home occupation" is a residence-based business that provides a product or service subject to certain listed conditions. For instance, signage, the use of outside

COUNCIL OF THE COUNTY OF MAUI
PLANNING COMMITTEE

January 25, 2008
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Committee
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delivery vehicles, and customer visits are prohibited. Transient vacation rentals and automobile-repair shops are not valid home occupations. Currently, "home occupation" is a permitted use only in three zoning districts (Wailuku-Kahului Project Districts I, II, and III).

Your Committee noted that expanding the list of zoning districts in which "home occupation" is a permitted use would promote economic development and lessen the need for commuting.

Your Committee further noted that any countywide land use bill must be referred to the planning commissions for findings and recommendations prior to passage by the Council, pursuant to Sections 8-8.4 and 8-8.6 of the Revised Charter of the County of Maui (1983), as amended.

Your Committee voted to further revise the revised draft resolution to request that the Maui Planning Commission obtain the advice of the Hana Advisory Committee.

Your Committee voted to recommend adoption of the revised draft resolution, as further revised.

Your Committee is in receipt of a proposed resolution entitled "REFERRING A DRAFT BILL TO AUTHORIZE HOME OCCUPATIONS IN VARIOUS ZONING DISTRICTS TO THE LANAI, MAUI, AND MOLOKAI PLANNING COMMISSIONS", approved as to form and legality by the Department of the Corporation Counsel, consistent with your Committee's recommendations.

Your Planning Committee RECOMMENDS that Resolution No. 08-5, as revised herein and attached hereto, entitled "REFERRING A DRAFT BILL TO AUTHORIZE HOME OCCUPATIONS IN VARIOUS ZONING DISTRICTS TO THE LANAI, MAUI, AND MOLOKAI PLANNING COMMISSIONS", be ADOPTED.

Adoption of this report is respectfully requested.

COUNCIL OF THE COUNTY OF MAUI
PLANNING COMMITTEE

January 25, 2008
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Committee
Report No. 08-15



GLADYS C. BALSA

Chair



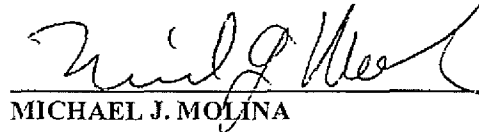
BILL KAUAKEA MEDEIROS

Member



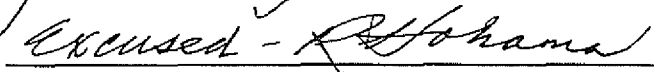
JO ANNE JOHNSON

Vice-Chair



MICHAEL J. MOLINA

Member



G. RIKI HOKAMA

Member

COUNCIL OF THE COUNTY OF MAUI

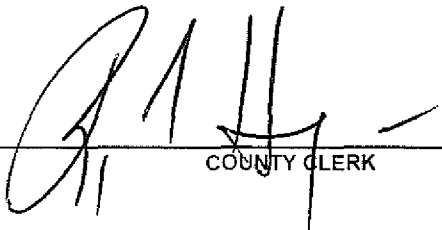
WAILUKU, HAWAII 96793

CERTIFICATION OF ADOPTION

It is HEREBY CERTIFIED that COMMITTEE REPORT NO. 08-15 was adopted by the Council of the County of Maui, State of Hawaii, on the 25th day of January, 2008, by the following vote:

MEMBERS	G. Riki HOKAMA Chair	Dennis A. MATEO Vice-Chair	Michelle ANDERSON	Gladys C. BAISA	Jo Anne JOHNSON	William J. MEDEIROS	Michael J. MOLINA	Joseph PONTANILLA	Michael P. VICTORINO
ROLL CALL	Aye	Aye	Aye	Aye	Aye	Aye	Aye	Aye	Aye

Resolution No. 08-5 was amended prior to adoption.


COUNTY CLERK

Resolution

No. 08-5

REFERRING A DRAFT BILL TO AUTHORIZE HOME OCCUPATIONS IN
VARIOUS ZONING DISTRICTS TO THE LANAI, MAUI, AND
MOLOKAI PLANNING COMMISSIONS

WHEREAS, the Council is considering a draft bill to authorize home occupations in various zoning districts in Maui County; and

WHEREAS, Section 19.04.040, Maui County Code, defines "home occupation"; and

WHEREAS, Sections 8-8.4 and 8-8.6 of the Revised Charter of the County of Maui (1983), as amended, require that the appropriate planning commissions review and transmit recommendations to the Council on proposed land use ordinances; and

WHEREAS, Section 2.28.060 of the Maui County Code provides that the Hana Advisory Committee shall advise the Maui Planning Commission on matters within its jurisdiction; now, therefore,

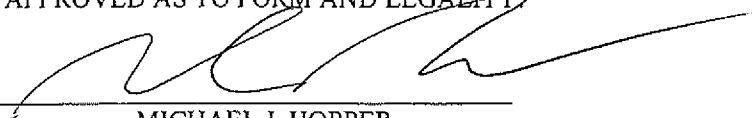
BE IT RESOLVED by the Council of the County of Maui:

1. That it hereby refers the draft bill entitled "A BILL FOR AN ORDINANCE TO AUTHORIZE HOME OCCUPATIONS IN VARIOUS ZONING DISTRICTS", a copy of which is attached hereto as Exhibit "A" and made a part hereof, and definitions of "home occupation" in any recommendations thereto, to the Lanai Planning Commission, the Maui Planning Commission, and the Molokai Planning Commission, for review pursuant to Sections 8-8.4 and 8-8.6 of the Revised Charter of the County of Maui (1983), as amended; and
2. That the Maui Planning Commission is requested to obtain the advice of the Hana Advisory Committee prior to transmitting its recommendations to the Council; and

Resolution No. 08-5

3. That certified copies of this Resolution be transmitted to the Mayor, the Planning Director, the Lanai Planning Commission, the Maui Planning Commission, and the Molokai Planning Commission.

APPROVED AS TO FORM AND LEGALITY



MICHAEL J. HOPPER
Deputy Corporation Counsel
County of Maui

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DRAFT

ORDINANCE NO. _____

BILL NO. _____ (2008)

A BILL FOR AN ORDINANCE TO AUTHORIZE HOME OCCUPATIONS IN
VARIOUS ZONING DISTRICTS

BE IT ORDAINED BY THE PEOPLE OF THE COUNTY OF MAUI:

SECTION 1. Section 19.08.020, Maui County Code, is hereby amended to read
as follows:

"19.08.020. Permitted uses. Within residential districts, the
following uses shall be permitted:

- A. Single-family dwellings;
- B. Greenhouses, flower and truck gardens, and nurseries; provided,
that there shall be no retailing or transacting of business on the premises;
- C. Parks and playgrounds, noncommercial; certain commercial
amusement and refreshment sale activities may be permitted when under
supervision of the government agency in charge of the park or playground;
- D. Schools, elementary, intermediate, high, and colleges, publicly
or privately owned, which may include on-campus dormitories;
- E. Buildings or premises used by the federal, State, or county
governments for public purposes;
- F. Accessory buildings located on the same lot, the use of which is
customary, [and] incidental, usual, and necessary to that of the main
building or to the use of the land;
- G. An accessory dwelling may be permitted where the area of the
lot on which the main house is located is seven thousand five hundred
square feet or more. Chapter 19.35 of this article, pertaining to accessory
dwellings, shall be applicable to any accessory dwelling;
- H. Day care nurseries, kindergartens, nursery schools, child care
homes, day care homes, day care centers, nurseries, preschool
kindergartens, babysitting services, and other like facilities located in
private homes used for child care services. These facilities shall serve six
or fewer children at any one time on lot sizes of less than seven thousand
five hundred square feet, serving eight or fewer children at any one time
on lot sizes of seven thousand five hundred or more square feet but less

than ten thousand square feet, or serving twelve or fewer children at any one time on lot sizes of ten thousand or more square feet;

I. Subject to the restrictions and standards of chapter 19.64 of this title, Type 1 bed and breakfast homes shall be permitted on any lot; Type 2 bed and breakfast homes shall be permitted on lots of seven thousand five hundred square feet or greater, and Type 3 bed and breakfast homes shall be permitted on lots of ten thousand square feet or greater; and

J. Home occupations."

SECTION 2. Section 19.09.030, Maui County Code, is hereby amended to read as follows:

"19.09.030. Permitted uses. Within the R-O zero lot line residential district, the following uses shall be permitted:

A. One single-family dwelling unit per lot;

B. Accessory buildings and uses [which] that are subordinate and customarily incidental to the single-family dwelling unit including, but not limited to, private garages, carports, utility storage sheds but not including accessory dwellings as defined in chapter 19.35; [and]

C. Day care nurseries, kindergartens, nursery schools, child care homes, day care homes, day care centers, nurseries, preschool kindergartens, babysitting services, and other like facilities located in dwelling units used for child care services. These facilities shall serve six or fewer children at any one time on lot sizes of less than seven thousand five hundred square feet, serving eight or fewer children at any one time on lot sizes of seven thousand five hundred or more square feet but less than ten thousand square feet, or serving twelve or fewer children at any one time on lot sizes of ten thousand or more square feet; and

D. Home occupations."

SECTION 3. Section 19.12.020, Maui County Code, is hereby amended to read as follows:

"19.12.020. Permitted uses. Within the A-1 and A-2 districts, the following uses shall be permitted:

A. Any use permitted in the residential and duplex districts;

B. Apartment houses;

C. Boardinghouses, roominghouses and lodginghouses;

D. Bungalow courts;

E. Apartment courts;

F. Townhouses, under the provisions of conditional permit; and

G. Home occupations."

SECTION 4. Section 19.15.020, Maui County Code, is hereby amended to read as follows:

"19.15.020. Permitted uses. Within the B-CT country town business district, the following uses shall be permitted:

A. Principal Uses:

1. Amusement and recreational activities that are situated within completely enclosed buildings[.];
2. Automobile services[.];
3. Auditoriums and theaters[.];
4. Bakeries[.];
5. Buildings and premises utilized, owned, or operated by government agencies, including community centers[.];
6. Business, financial, and professional offices[.];
7. Commercial retail establishments[.];
8. Eating and drinking establishments[.];
9. Educational, research, trade, and personal skills facilities and learning centers[.];
10. Fitness centers and dancing studios[.];
11. Hardware, feed, and garden stores; provided, that feed and fertilizer are kept within an enclosed building[.];
12. Laundromats[.];
13. Music studios[.];
14. Parking lots[.];
15. Personal service establishments[.];
16. Printing establishments that are totally enclosed within a building[.];
17. Religious, benevolent, and philanthropic societies, and civic organizations[.];
18. Bed and breakfast homes, in lawfully existing single-family dwellings, subject to the restrictions and standards of section 19.64.030 of this title[.];
19. Day care facilities, except on Molokai[.];
20. Medical facilities and animal hospitals, except on Molokai[.];
21. Multifamily dwellings, duplexes, and bungalow courts, except on Molokai[, and];
22. Combinations of dwelling units with other permitted principal uses in the same building, except on Molokai[.]; and
23. Home occupations, in lawfully existing single-family dwellings.

B. Accessory uses and structures necessary to facilitate the establishment of permitted principal uses."

SECTION 5. Section 19.16.020, Maui County Code, is hereby amended to read as follows:

"19.16.020. Permitted uses. Within the B-1 district, the following uses shall be permitted:

- A. Barber or beauty shops;
- B. Baker goods stores;
- C. Book, stationery or gift stores;
- D. Candy stores;
- E. Churches;
- F. Day care centers and nurseries;
- G. Delicatessen stores;
- H. Drugstores;
- I. Florist shops;
- J. Grocery stores and meat markets;
- K. Ice cream or snack counters;
- L. Laundromats;
- M. Liquor stores (package only);

N. Gasoline retailing, provided it is owned and operated as an adjunct to a neighborhood store; and provided further, that no servicing, repairing, storing, washing, or maintenance of vehicles will be permitted on the premises;

O. Other similar retail businesses or service establishments [which] that supply commodities or perform services primarily for residents of the surrounding neighborhood; provided, however, such uses shall be approved by the commission as conforming to the intent of this title;

P. One single-family dwelling per lot, provided the lot is sufficiently large to provide a lot area six thousand square feet for the dwelling after the area for the business, parking and other accessory areas for the business have been subtracted; or living and sleeping quarters for a single family constructed above the ground floor of the business building;

Q. Bed and breakfast homes, subject to the restrictions and standards of section 19.64.030 of this title; and

R. Home occupations in single-family dwellings, pursuant to subsection P."

SECTION 6. Material to be repealed is bracketed. New material is underscored.

In printing this bill, the County Clerk need not include the brackets, the bracketed material, or the underscoring.

SECTION 7. This ordinance shall take effect upon its approval.

APPROVED AS TO FORM AND
LEGALITY:

Department of the Corporation Counsel
County of Maui

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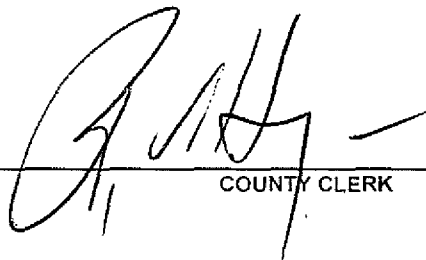
COUNCIL OF THE COUNTY OF MAUI

WAILUKU, HAWAII 96793

CERTIFICATION OF ADOPTION

It is HEREBY CERTIFIED that RESOLUTION NO. 08-5 was adopted by the Council of the County of Maui, State of Hawaii, on the 25th day of January, 2008, by the following vote:

MEMBERS	G. Riki HOKAMA Chair	Dennis A. MATEO Vice-Chair	Michelle ANDERSON	Gladys C. BAISA	Jo Anne JOHNSON	William J. MEDEIROS	Michael J. MOLINA	Joseph PONTANILLA	Michael P. VICTORINO
ROLL CALL	Aye	Aye	Aye	Aye	Aye	Aye	Aye	Aye	Aye


COUNTY CLERK